

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

EDWARD FAYE PARKS,	)	
	)	
Plaintiff,	)	
vs.	)	NO. CIV-09-0406-HE
	)	
DR. HOLY, and PHYSICIANS'S	)	
NETWORK ASSOCIATION,	)	
	)	
Defendants.	)	

**ORDER**

Plaintiff Edward Faye Parks, a state prisoner appearing *pro se* and *in forma pauperis*, filed this action under 42 U.S.C. § 1983 alleging a violation of a constitutional right. Consistent with 28 U.S.C. §636(b)(1)(B) and (C), the matter was referred for initial proceedings to Magistrate Judge Valerie K. Couch. She has recommended that the plaintiff's claims against defendants Holy and Physician's Network Association be dismissed *sua sponte* for failure to state a claim and that his pending motions be denied. She also recommends that the plaintiff be given the opportunity to amend his complaint to name a proper defendant with respect to the claim asserted in Count III.

The plaintiff filed an "amended statement of claim," but did not file an objection to the Report and Recommendation. He thereby waived his right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996). *See* 28 U.S.C. § 636(b)(1)(C); LCvR72.1.


In his amended complaint, while the plaintiff mentions alleged injuries sustained by other inmates due to improper medical treatment and his own transfer to GPCF from a correctional facility in Arizona, he focuses on his head pain, which he claims is due to a head

injury he sustained in Arizona in 2007. The plaintiff disagrees with the medical treatment provided by Doctor Holy, but has failed to pleaded a claim against him or anyone else for a constitutional violation. Therefore, the amended complaint [Doc. #21] is *sua sponte* **dismissed** for failure to state a claim.

With respect to the plaintiff's initial complaint, the court adopts Magistrate Judge Couch's Report and Recommendation and **denies** the plaintiff's motions [Doc. Nos. 9, 11, 12, 13, and 16]. His claims against defendants Holy and Physician's Network Association and the claims asserted in Counts I and II are **dismissed without prejudice**. The plaintiff is granted leave to amend his complaint to name a proper defendant with respect to the claim asserted in Count III. If an amended complaint is not filed by **Thursday, October 22, 2009**, this action will be dismissed.

**IT IS SO ORDERED.**

Dated this 6th day of October, 2009.

  
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JOE HEATON  
UNITED STATES DISTRICT JUDGE